

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7049 of 1987

with

SPECIAL CIVIL APPLICATION Nos. 7071 & 7074 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE K.G.BALAKRISHNAN

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

G S R T C

Versus

S T WORKERS UNIION

Appearance:

MR NV ANJARIA for MR SN SHELAT for Petitioner

MR HK RATHOD for Respondent No. 1

CORAM : MR.JUSTICE K.G.BALAKRISHNAN

Date of decision: 01/05/98

COMMON ORAL JUDGEMENT

1. These three Special Civil Applications are filed by the Gujarat State Road Transport Corporation. The correctness of the award passed by the Industrial Tribunal is challenged. In the year 1974, the petitioner-Corporation made recruitment of Typists/Junior Clerks and Shri Chauhan, Shri J.B. Yadav and Shri Vyas

were also selected for appointment. According to the petitioner-Corporation, these three persons could not be appointed on the post they were selected as there were no existing vacant vacancies. However, they were given temporary employment and they continued for some period and thereafter they were given various spells of appointment until they were fully absorbed as Junior Clerks/Typists. These employees later on contended that they were entitled to be treated as permanent employees right from the date of their first temporary appointment. According to them, there were permanent vacancies and as per clause 42 of the Settlement arrived at on 22.10.1964 between the Corporation and its employees, these employees should have been given the time scale pay from the date of their initial appointment. The Industrial Tribunal by its impugned award dated 7.11.86 held that these three employees were entitled to get time scale with effect from the date of their initial appointment. The said award is challenged before me.

2. I have heard Mr. N.V. Anjaria for the petitioners and Mr. H.K. Rathod for the respondent Corporation. It is urged by the counsel for the petitioners that these three employees were not appointed against the permanent vacant post and therefore, they were not entitled to get benefit of time scale from the date of their initial appointment. It was pointed out that they were given only temporary appointment in various spells till they were regularly appointed in the permanent post and that till such regular appointment, they were not entitled to get benefits of time scale. Counsel for the petitioner also pointed out that clause 42 of Settlement dated 22.10.64 has no application and the said clause would apply only if there is existing vacancy. It is further pointed out that these employees approached the Tribunal after a period of ten years and because of such delay and laches, the Tribunal should have rejected the claim of the employees. Counsel for the respondent on the other hand contended that there were permanent vacancies at the time of their recruitment and these employees were not given appointment and therefore, the Tribunal was justified in granting the benefit of time scale. It is also submitted that these employees were given only the benefit of time scale with effect from the date of their initial appointment.

3. At the outset, I must say the award was passed in 1986 and at the time of admission of this Special Civil Application, no interim order was passed and the award passed by the Tribunal must have been given effect to by the petitioner-Corporation. The period to which the

benefit is given is a short period of not exceeding six months. These employees had worked during this period and according to the petitioner-Corporation, they were recruited by complying with all procedural formalities. Even if it is assumed that the earlier services of these employees were on temporary basis, the same period could be treated as service for the purpose of increment and other benefits. It is quite normal to give such benefits to the employees. After long lapse of time, I do not think it proper to interfere with the impugned award. It is true that the employees had approached the Tribunal after long period and the Industrial Tribunal in such matters should have taken note of that fact while granting the relief. However, by exercising power under Article 226 of the Constitution of India, I do not think it proper to interfere with the same at this stage solely on that ground. Therefore, the Special Civil Applications are disposed off and if the Corporation has not implemented the impugned award, the same may be given effect at the earliest within a period of six months. Rule discharged.

Amp/-